HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No.293 of 2006

Between:

G. Chandra Kumar

… Appellant

And

The District Collector, Karimnagar District

and another

… Respondents

::JUDGMENT::

Counsel for the appellant: Sri Vedula Venkataramana and Sri Vedula Srinivas

Counsel for the respondents: Government Pleader for Social Welfare

22nd March, 2006

Per G.S. Singhvi, CJ

Feeling dissatisfied with order dated 17-2-2006 passed by the learned Single Judge who, without quashing proceedings dated 23-9-1995 issued by Joint Collector-cum-Additional District Magistrate, Karimnagar (respondent No.2), directed that opportunity be given to him to show cause in the matter of cancellation of caste certificate, the appellant has preferred this appeal.

The appellant claims that he is a member of “Vanne Kapu” community. He joined service in the Transport Department as Assistant Motor Vehicle Inspector. In the course of employment, he was promoted as Motor Vehicle Inspector. While he was posted at Nirmal, Adilabad District, Tahsildar, Mallial conducted some enquiry and submitted report dated 3-9-1984 with the finding that the appellant belongs to “Vanne Kapu” caste. Similar enquiries were made by the Mandal Revenue Officer some time in July, 1989 and May, 1995. He too submitted reports to District Collector with the conclusion that the finding recorded by the Tahsildar was correct. However, on the basis of some discreet enquiry got conducted by him, respondent No.2 issued notice dated 23-9-1995 to the appellant requiring him to show cause against the proposed cancellation of caste certificate. The appellant challenged the same in Writ Petition No.23247 of 1995 mainly on the ground of violation of the rules of natural justice. He pleaded that respondent No.2 had issued show cause notice with a closed mind, inasmuch as he had already come to a definite conclusion that the caste certificate of the appellant was fabricated. Another plea taken by the appellant was that the show cause notice was issued without complying with the provisions of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 and the Rules framed thereunder and, therefore, the same was liable to be declared as nullity.

In the counter filed by the respondents, it was pleaded that even though the writ petitioner (appellant) had completed more than 14 years service, the competent authority was entitled to enquire into the genuineness of the caste certificate dated 21-10-1980 issued by the Tahsildar and no illegality was committed by issuing show cause notice because the preliminary enquiry got conducted by respondent No.2 revealed that the caste certificate was bogus.

On a consideration of the pleadings of the parties and arguments of their advocates, the learned Single Judge held that the show cause notice was vitiated

due to violation of the rules of natural justice. He further held that the writ petitioner (appellant herein) is entitled to a fair opportunity of hearing. Accordingly, he disposed of the writ petition by directing the concerned authority to supply the relevant material to the petitioner and give him effective opportunity to show cause against the proposed action. For the sake of convenience, the relevant extracts of the order passed by the learned Single Judge are reproduced below:

> "Since the impugned show cause notice dated 23-09-1995 was on the basis of a discreet enquiry of which the petitioner had no notice and since the show cause notice proceeds on the presumption that the caste certificate submitted by the petitioner is false, there is substantial force in the submission of Sri V. Rajagopal Reddy, learned counsel for the petitioner, that submitting a reply thereto would be an empty formality. I am however unable to accept his contention that no action should be taken against the petitioner in view of the earlier enquiries or because of passage of time.
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> It would meet the ends of justice, if the petitioner is given an opportunity not only to submit his representation on the genuineness of his earlier caste certificate, but also as to why the caste certificate issued to him earlier should not be cancelled. Needless to state that in order to enable the petitioner to submit an effective reply to the show cause notice, the documents on which reliance was placed, in the said show cause notice, must be supplied to the petitioner and thereafter action must be taken in accordance with the provisions of the Act and the Rules made thereunder. Till action is taken under the Act and Rules and final orders are passed in this regard, the certificate granted to the petitioner earlier shall not be cancelled."

We have heard learned counsel for the parties and perused the record. In our opinion, once the learned Single Judge came to the conclusion that show cause notice dated 23-9-1995 was issued by respondent No.2 after pre-judging the issue relating to the genuineness of the caste certificate produced by the appellant, he ought to have quashed the same with liberty to the competent authority to take action in accordance with law.

A reading of show cause notice issued by respondent No.2 makes it clear that the same is founded on some enquiry got conducted through Revenue Divisional Officer, Jagtial. The officer concerned recorded a specific finding that the appellant does not belong to "Vanne Kapu" community (Backward Class Group 'A' Serial Number 1) and that he belongs to "Munnuru Kapu" caste, which is declared as Backward Class Group 'D' Serial Number 20. The officer concerned further

concluded that the certificate obtained by the appellant was bogus. Respondent No.2 accepted the report of the Revenue Divisional Officer and issued notice to the appellant to show cause as to why the false caste certificate issued by the Tahsildar should not be cancelled and he be not prosecuted. This clearly demonstrates that before issuing notice to the appellant, respondent No.2 had pre-judged his guilt and the so-called opportunity given to him was only an empty formality.

In view of the above, we feel that ends of justice would be met by quashing notice dated 23-9-1995 with liberty to the competent authority to take action under Section 5 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 read with the Andhra Pradesh Scheduled Castes, Scheduled Tribes and Backward Classes – Issue of Community, Nativity and Date of Birth Certificates Rules, 1997 and pass appropriate order after giving reasonable opportunity of hearing to the appellant. Ordered accordingly.

While disposing of the appeal in the manner indicated above, we make it clear that the pendency of the writ petition filed by the appellant for a long period of more than 10 years shall not enure to his advantage and the competent authority shall be absolutely free to take action in regard to the genuineness of the caste certificate produced by the appellant.

We hope and trust that if the competent authority decides to take fresh action in the matter of genuineness of the caste certificate of the appellant, then appropriate action shall be taken and finalized within a maximum period of six months.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

22nd March, 2006

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